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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,106	02/08/2002	John Walter Turgeon-Schramm	3616.199US01	2539
7590	11/05/2003		EXAMINER	
MERCHANT & GOULD P.C. P.O. Box 2903 Minneapolis, MN 55402-0903			CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/072,106	TURGEON-SCHRAMM ET AL.	
	Examiner	Art Unit	
	Korie H. Chan	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 August 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,5-12 and 14 is/are rejected.
- 7) Claim(s) 2 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1, 3, and 5 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sorheim et al (US patent no. 5,820,304). Sorheim discloses a block having channel (6) on a top surface (4, note that you can rotate the block such that 4 is a top surface) which includes a closed end and an open end extending through one of the end surfaces (5) of the block and wherein the channel is sized to receiving an elongate retaining member (20); and wherein the six surfaces of the block are have a textured surface; wherein the channel has a portion with a depth adjacent the rear wall that is greater than a depth of another portion adjacent the front wall; and wherein a wall (figure 4) having an exterior corner with the corner blocks described. Sorheim shows the retaining member (20) ends at the surface of the next block and being flush with the top surface in the figure 3. Consequently, meets the limitation that "no portion of the elongated retaining member projecting above the top surface.

Claims 6-10,12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Frantz (US patent no. 2,944,162). Franz discloses a wall (fig. 1) having plurality of courses (see attached examiner's illustration of courses 1, 2, 3 for example where each course is defined by two rows of blocks), each course having a plurality of blocks (12) defining an exterior corner (12) and a second plurality of blocks (see attached

443.01
page 2,00-127

illustration) forming a wall portion adjacent the exterior corner, each block of first and second plurality of blocks include a channel (18) formed on a top surface thereof, a retaining bar (66) disposed within the channels in both the first and second plurality of blocks; wherein the channels of first and second plurality of blocks are aligned wherein the blocks in each subcourse (defined by a single row of blocks) have a height less than the height of the first plurality of blocks and the subcourses that form each course at the exterior corner have a combined height that is equal to first height.

Claim Rejections - 35 USC § 103

Claim 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz'162 in view of Miller et al'460. Frantz disclosed all the claimed features of applicant's invention except for providing reinforcement material for a retaining wall. Miller teaches a retaining wall using reinforcement material (44) secured to the wall by the retaining bar (42) as a wall reinforcement. It would have been obvious to one of ordinary skill in the art to use Frantz'162 wall construction as a retaining wall and to provide a reinforcement material therefore as taught by Miller for reinforcing the wall.

Allowable Subject Matter

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 8/20/2003 have been fully considered but they are not persuasive as discussed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
October 31, 2003

blocks forming wall portion

Aug. 1, 1961

M. FRANTZ

2,994,162

BUILDING BLOCK AND WALL CONSTRUCTION MADE THEREFROM

Filed July 5, 1957

FIG. 1

2 Sheets-Sheet 1

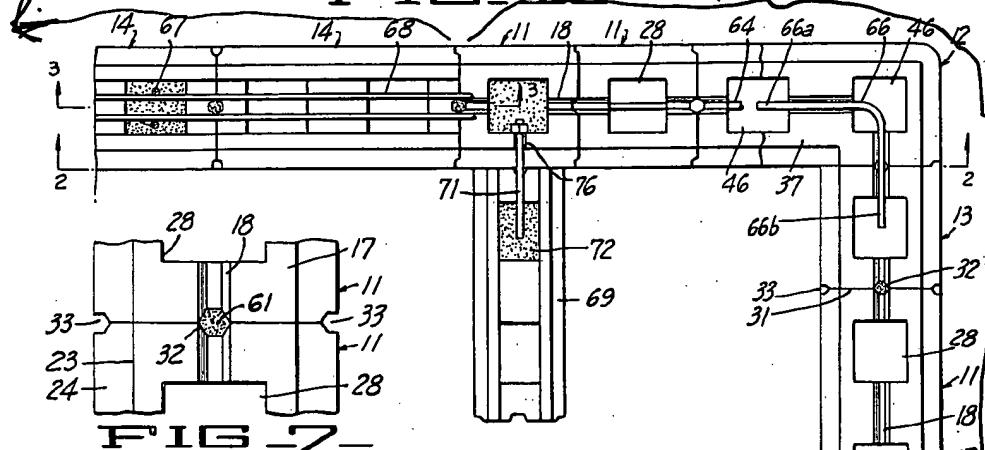
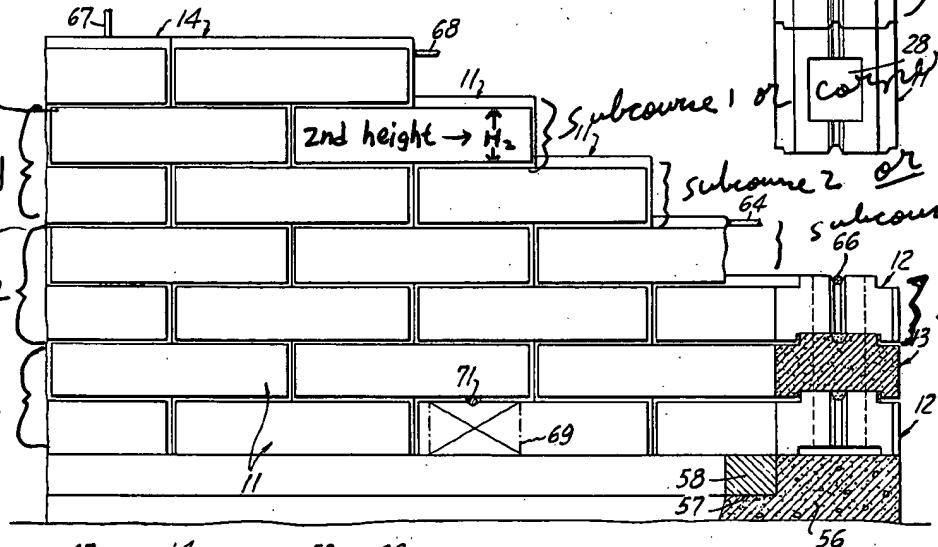


FIG -7-

1st height

FIG. 2.



67-9 (14) 53, 68

FIG. 3.

INVENTOR.
Markey Frantz

BY
Felix and Sevaine

ATTORNEYS

Examiner's illustration